

UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
RALEIGH DIVISION

IN RE:

SONA BLW PRECISION FORGE, INC.

DEBTOR

CASE NO:

16-04336-5-DMW

CHAPTER 7

NOTICE OF MOTION

NOTICE is hereby given of the Motion for Approval of Compromise with TCF Equipment Finance, a division of TCF National Bank ("TCF"), seeking approval to compromise issues in this case between the bankruptcy estate and TCF, filed simultaneously herewith by counsel for Richard D. Sparkman ("Trustee"), Chapter 7 Trustee in the above-captioned case; and

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, of you have on in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.)

If you do not want the court to grant the Motion for Approval of Compromise with TCF, or if you want the court to consider your views on the motion, then on or before **July 9, 2018**, unless otherwise ordered, you or your attorney must file with the court, pursuant to Local Rule 9013-1 and 9014-1, a written response, an answer explaining your position, and a request for hearing.

The Court's mailing address is:

Clerk, U.S. Bankruptcy Court
Eastern District of North Carolina
PO Box 791
Raleigh, North Carolina 27602

If you mail your response to the court for filing, you must mail it early enough so the court will receive it on or before the date stated above.

You must also mail a copy to:

Marjorie K. Lynch, Esquire Bankruptcy Administrator 434 Fayetteville Street, Suite 640 Raleigh, NC 27601	Richard D. Sparkman Chapter 7 Trustee P.O. Box 1687 Angier, NC 27501-1687
Sona BLW Precision Forge, Inc. 500 Oak Tree Drive Selma, NC 27576	Gerald A Jeutter, Jr. PO Box 12585 Raleigh, NC 27605-2585

If a response and a request for hearing is filed in writing on or before the date set above, a hearing will be conducted on the motion at a date, time and place to be later set and all parties will be notified accordingly.

If you or your attorney do not take these steps, the court may decide that you do not oppose the relief sought in the motion or objection and may enter an order granting that relief.

DATED: June 13, 2018

s/Nicholas C. Brown

James B. Angell

State Bar No. 12844

Nicholas C. Brown

State Bar No. 38054

Howard, Stallings, From, Atkins,

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UNITED STATES BANKRUPTCY COURT
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**MOTION FOR APPROVAL OF COMPROMISE WITH
TCF EQUIPMENT FINANCE, A DIVISION OF TCF NATIONAL BANK**

NOW COMES Richard D. Sparkman (“Trustee” or “Movant”), Chapter 7 Trustee in the above-captioned case, by and through undersigned counsel, and pursuant to Bankruptcy Rule 9019, moves this Court for entry of an Order granting him authority to compromise and settle issues with TCF Equipment Finance, a division of TCF National Bank (herein, “TCF”) on the terms and conditions set forth on Exhibit A, attached hereto and incorporated herein by reference (the “Settlement Agreement”). In support of this Motion, the Trustee shows the Court the following:

1. The Movant, Richard D. Sparkman, is the Chapter 7 Trustee for Sona BLW Precision Forge, Inc. (the “Debtor”).

2. The controversy or dispute sought to be compromised is as follows: the Trustee has identified certain payments by the Debtor during the 90-day period preceding the Debtor’s bankruptcy filing date in the total amount of \$36,126.21, which payments appear to be subject to avoidance and recovery as preferential transfers under 11 U.S.C. §§ 547, 550, and for which TCF asserts certain defenses under 11 U.S.C. § 547, including that all of the payments were made in the ordinary course of business.

3. The Movant now seeks authorization to resolve the above-described controversy or dispute under the terms and conditions set forth in Exhibit A, which terms are summarized as follows:

- a) Within fifteen (15) days following the Bankruptcy Court’s approval of this Settlement Agreement, TCF shall deliver a check in good U.S. funds in the amount of \$3,191.00 (the “Settlement Payment”) made payable to Richard D. Sparkman, Chapter 7 Trustee for Sona BLW Precision Forge, Inc. The Settlement Payment may be sent to the attention of James B. Angell, attorney for the Trustee, at the following address:

Howard, Stallings, From, Atkins, Angell & Davis, P.A.
Attn: James B. Angell
P.O. Box 12347
Raleigh, North Carolina, 27605

- b) Nothing herein shall operate to waive that certain unsecured claim asserted by TCF against the bankruptcy estate as evidenced by the Consent Order on Trustee's Objection to Claim of TCF Equipment Finance, entered by the Bankruptcy Court on April 26, 2017.
- c) Except as provided in paragraph (b), TCF releases the Trustee, the Debtor and the bankruptcy estate from all claims, demands, accounts, duties, damages, losses, expenses, costs, debts, obligations, causes of action and remedies therefor, choses in action, rights of indemnity and liability of any kind or nature whatsoever, whether known or unknown, suspected or unsuspected, which TCF may have, may have had, or might have had against the Debtor, including but not limited to any claims arising under 11 U.S.C. § 502(h).
- d) The Settlement Agreement is subject to approval by the Bankruptcy Court.

4. The Trustee has analyzed the proposed compromise, taking into consideration the facts, the strengths and weaknesses of the parties' positions, the equities involved, the information and evidence available to the Trustee to pursue the claims through trial, and the costs of negotiation and litigation.

5. The Trustee believes the proposed settlement is in the best interest of the estate and its creditors and requests that the Court approve this Motion.

WHEREFORE, the Trustee prays for an Order approving and authorizing the compromise on the terms described in Exhibit A attached hereto, and for such other relief as the Court deems just and proper.

DATED: June 13, 2018

/s/Nicholas C. Brown
James B. Angell
State Bar No. 12844
Nicholas C. Brown
State Bar No. 38054
Howard, Stallings, From, Atkins,
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UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
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IN RE:	CASE NO:
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CERTIFICATE OF SERVICE

I, Michelle R. Murdock, of the law firm Howard, Stallings, From, Atkins, Angell & Davis, P.A., certify that I am, and at all times hereinafter mentioned was, more than eighteen (18) years of age, and

That on June 13, 2018, the foregoing TRUSTEE'S NOTICE AND MOTION FOR APPROVAL OF COMPROMISE WITH TCF EQUIPMENT FINANCE, A DIVISION OF TCF NATIONAL BANK was electronically filed with the Clerk of Court using the CM/ECF system which will send notification of such filing to the parties listed below. I further certify that I have mailed the document to the non-CM/ECF participants as set out below by first class mail.

I certify under penalty of perjury that the foregoing is true and correct.

DATE: June 13, 2018

s/Michelle R. Murdock
Michelle R. Murdock, Paralegal
P.O. Box 12347
Raleigh, NC 27605
Telephone: (919) 821-7700
Facsimile: (919) 821-7703

Marjorie K. Lynch, Esquire Bankruptcy Administrator <i>Served via cm/ecf and by email to</i> <u>Karen_Cook@nceba.uscourts.gov</u> and <u>Lesley_Cavanaugh@nceba.uscourts.gov</u>	Richard D. Sparkman Chapter 7 Trustee <i>Served via cm/ecf</i>
Sona BLW Precision Forge, Inc. 500 Oak Tree Dr. Selma, NC 27576	Gerald A Jeutter, Jr. Jeutter Law <i>Served via cm/ecf</i>
James S. Livermon III Poyner Spruill LLP <i>Served via cm/ecf</i>	TCF Equipment Finance, a Division of TCF National Bank c/o Greg Payer, Special Assets Officer 11100 Wayzata Blvd., Ste. 801 Minnetonka, MN 55305

See attached Matrix

Gordon C. Woodruff Woodruff & Fortner PO Box 708 Smithfield, NC 27577	David F. Mills Law Office of David F. Mills Served via cm/ecf
John A. Northen Northen Blue Served via cm/ecf	R. Dennis Fairbanks Hunton & Williams LLP Served via cm/ecf
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